

1 **ABLE ACT REVISIONS**

2 2017 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Todd Weiler**

5 House Sponsor: Rebecca P. Edwards

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies provisions of the Achieving a Better Life Experience Program Act.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ defines terms;
- 13 ▶ directs the Department of Workforce Services to either:
 - 14 • administer the state Achieving a Better Life Experience Program (ABLE);
 - 15 • enter into a contract with a state that maintains a qualified ABLE program to
 - 16 provide Utah residents access to that state's qualified ABLE program; or
 - 17 • inform eligible individuals and parents or legal guardians of eligible individuals
 - 18 about qualified ABLE programs offered by other states to which Utah residents
 - 19 may apply; and
- 20 ▶ allows persons that contribute to an account in any qualified ABLE program to
- 21 claim a nonrefundable state tax credit.

22 **Money Appropriated in this Bill:**

23 None

24 **Other Special Clauses:**

25 None

26 **Utah Code Sections Affected:**

27 AMENDS:

28 **35A-12-102**, as enacted by Laws of Utah 2015, Chapter 460

29 **35A-12-201**, as enacted by Laws of Utah 2015, Chapter 460

30 **59-7-620**, as enacted by Laws of Utah 2015, Chapter 460

31 **59-10-1035**, as enacted by Laws of Utah 2015, Chapter 460

32 REPEALS:

33 **35A-12-202**, as enacted by Laws of Utah 2015, Chapter 460

34 **35A-12-301**, as enacted by Laws of Utah 2015, Chapter 460

35 **35A-12-302**, as enacted by Laws of Utah 2015, Chapter 460

36 **35A-12-303**, as enacted by Laws of Utah 2015, Chapter 460

37 **35A-12-304**, as enacted by Laws of Utah 2015, Chapter 460

38 **35A-12-305**, as enacted by Laws of Utah 2015, Chapter 460

39 **35A-12-401**, as enacted by Laws of Utah 2015, Chapter 460



41 *Be it enacted by the Legislature of the state of Utah:*

42 Section 1. Section **35A-12-102** is amended to read:

43 **35A-12-102. Definitions.**

44 As used in this chapter:

45 (1) "Account" means ~~[a state Achieving a Better Life Experience Program account~~
46 ~~established under this chapter]~~ an account in a qualified ABLE program.

47 ~~[(2) "Account administrator" means a person who administers accounts in accordance~~
48 ~~with this chapter.]~~

49 ~~[(3) "Account agreement" means an agreement between an account administrator and~~
50 ~~an account owner to establish an account.]~~

51 ~~[(4) "Account owner" means the following who enter into an agreement with an~~
52 ~~account administrator to establish an account under this chapter:]~~

53 ~~[(a) an eligible individual; or]~~

54 ~~[(b) if the eligible individual is under 18 years of age or is incapacitated, a parent or~~
55 ~~legal guardian of the eligible individual.]~~

56 ~~[(5) "Beneficiary" means an individual who is:]~~
57 ~~[(a) an eligible individual;]~~
58 ~~[(b) a resident of:]~~
59 ~~[(i) this state; or]~~
60 ~~[(ii) a contracting state; and]~~
61 ~~[(c) designated as the beneficiary of an account under an account agreement.]~~
62 ~~[(6) "Contracting state" means a state that:]~~
63 ~~[(a) does not have an Achieving a Better Life Experience program that meets the~~
64 ~~requirements to be a qualified Achieving a Better Life Experience program under the federal~~
65 ~~Achieving a Better Life Experience Act; and]~~
66 ~~[(b) has entered into a contract with this state to provide residents of the other state~~
67 ~~access to the state Achieving a Better Life Experience Program.]~~
68 ~~[(7) "Eligible individual" means an individual who, before the individual turns 26 years~~
69 ~~of age:]~~
70 ~~[(a) as determined by the department, has a medically determinable physical or mental~~
71 ~~impairment that:]~~
72 ~~[(i) results in marked and severe functional limitations that can be expected to result in~~
73 ~~death; or]~~
74 ~~[(ii) has lasted or can be expected to last for a continuous period of 12 months or more;~~
75 ~~or]~~
76 ~~[(b) is eligible for benefits under title II or title XVI of the Social Security Act on the~~
77 ~~basis of blindness.]~~
78 ~~[(8) "Federal Achieving a Better Life Experience Act" means the Stephen Beck, Jr.,~~
79 ~~Achieving a Better Life Experience Act of 2014, Pub. L. No. 113-295, 128 Stat. 4010.]~~
80 ~~[(9) "Qualified disability expenses" means the same as that term is defined in the~~
81 ~~federal Achieving a Better Life Experience Act.]~~
82 (2) "Qualified ABLE program" means the same as that term is defined in 26 U.S.C.

83 Sec. 529A.

84 ~~[(10)]~~ (3) "State Achieving a Better Life Experience Program" means the program
85 created by this chapter.

86 Section 2. Section **35A-12-201** is amended to read:

87 **35A-12-201. Creation of program.**

88 (1) There is created the state Achieving a Better Life Experience Program.

89 (2) The department shall do one of the following:

90 (a) administer the ~~[program]~~ state Achieving a Better Life Experience Program in
91 compliance with:

92 ~~[(a) this chapter;]~~

93 ~~[(b) the federal Achieving a Better Life Experience Act; and]~~

94 (i) 26 U.S.C. Sec. 529A; and

95 ~~[(c)]~~ (ii) regulations, if any, issued by the United States Department of the Treasury[-];

96 ~~[(3) The program shall authorize the creation of an account for the purpose of allowing
97 contributions on behalf of a beneficiary for the payment of qualified disability expenses.]~~

98 ~~[(4) Subject to Subsection **35A-12-301**(3), the department shall ensure that
99 contributions to an account:]~~

100 ~~[(a) are held in trust for a beneficiary; and]~~

101 ~~[(b) may not be used for a purpose other than the payment of qualified disability
102 expenses.]~~

103 (b) enter into a contract with a state that maintains a qualified ABLE program to
104 provide Utah residents access to that state's qualified ABLE program; or

105 (c) inform eligible individuals and parents or legal guardians of eligible individuals
106 about qualified ABLE programs offered by other states to which Utah residents may apply.

107 (3) This chapter may not be interpreted to:

108 (a) authorize or provide a disability-related service to an eligible individual;

109 (b) be a factor in establishing residency; or

110 (c) provide that contributions made into an account are sufficient to cover the qualified
111 disability expenses of an eligible individual.

112 (4) An account is not insured or guaranteed by the state.

113 (5) The state does not guarantee the rate or payment of interest or other return on an
114 account.

115 Section 3. Section **59-7-620** is amended to read:

116 **59-7-620. Nonrefundable tax credit for contribution to state Achieving a Better**
117 **Life Experience Program account.**

118 (1) As used in this section:

119 [~~(a) "Account" means the same as that term is defined in Section 35A-12-102.;~~]

120 [~~(b) "Account administrator" means the same as that term is defined in Section~~
121 ~~35A-12-102.;~~]

122 (a) "Account" means an account in a qualified ABLE program where the designated
123 beneficiary of the account is a resident of this state.

124 [~~(c)~~] (b) "Contributor" means a corporation that:

125 (i) makes a contribution to an account; and

126 (ii) receives a statement from the [~~account administrator in accordance with Section~~
127 ~~35A-12-304~~] qualified ABLE program itemizing the contribution.

128 [~~(d) "State Achieving a Better Life Experience Program" means the same as that term~~
129 ~~is defined in Section 35A-12-102.;~~]

130 (c) "Designated beneficiary" means the same as that term is defined in 26 U.S.C. Sec.
131 529A.

132 (d) "Qualified ABLE program" means the same as that term is defined in Section
133 35A-12-102.

134 (2) A contributor to an account [~~created under the state Achieving a Better Life~~
135 ~~Experience Program~~] may claim a nonrefundable tax credit as provided in this section.

136 (3) Subject to the other provisions of this section, the tax credit is equal to the product

137 of:

138 (a) 5%; and

139 (b) the total amount of contributions:

140 (i) the contributor makes for the taxable year; and

141 (ii) for which the contributor receives a statement from the ~~[account administrator in~~
142 ~~accordance with Section 35A-12-304]~~ qualified ABLÉ program itemizing the contributions.

143 (4) A contributor may not claim a tax credit under this section:

144 (a) for an amount of excess contribution to an account that is returned to the
145 contributor ~~[in accordance with Section 35A-12-302];~~ or

146 (b) with respect to an amount the contributor deducts on a federal income tax return.

147 (5) A tax credit under this section may not be carried forward or carried back.

148 Section 4. Section 59-10-1035 is amended to read:

149 **59-10-1035. Nonrefundable tax credit for contribution to state Achieving a Better**
150 **Life Experience Program account.**

151 (1) As used in this section:

152 ~~[(a) "Account" means the same as that term is defined in Section 35A-12-102:]~~

153 ~~[(b) "Account administrator" means the same as that term is defined in Section~~
154 ~~35A-12-102:]~~

155 (a) "Account" means an account in a qualified ABLÉ program where the designated
156 beneficiary of the account is a resident of this state.

157 ~~[(c)]~~ (b) "Contributor" means a claimant, estate, or trust that:

158 (i) makes a contribution to an account; and

159 (ii) receives a statement from the ~~[account administrator in accordance with Section~~
160 ~~35A-12-304]~~ qualified ABLÉ program itemizing the contribution.

161 ~~[(d) "State Achieving a Better Life Experience Program" means the same as that term~~
162 ~~is defined in Section 35A-12-102:]~~

163 (c) "Designated beneficiary" means the same as that term is defined in 26 U.S.C. Sec.

164 529A.

165 (d) "Qualified ABLE program" means the same as that term is defined in Section
166 35A-12-102.

167 (2) A contributor to an account [~~created under the state Achieving a Better Life~~
168 ~~Experience Program~~] may claim a nonrefundable tax credit as provided in this section.

169 (3) Subject to the other provisions of this section, the tax credit is equal to the product
170 of:

171 (a) 5%; and

172 (b) the total amount of contributions:

173 (i) the contributor makes for the taxable year; and

174 (ii) for which the contributor receives a statement from the [~~account administrator in~~
175 ~~accordance with Section 35A-12-304~~] qualified ABLE program itemizing the contributions.

176 (4) A contributor may not claim a tax credit under this section:

177 (a) for an amount of excess contribution to an account that is returned to the
178 contributor [~~in accordance with Section 35A-12-302~~]; or

179 (b) with respect to an amount the contributor deducts on a federal income tax return.

180 (5) A tax credit under this section may not be carried forward or carried back.

181 Section 5. **Repealer.**

182 This bill repeals:

183 Section **35A-12-202, Application.**

184 Section **35A-12-301, Account administrator -- Fees or service charges.**

185 Section **35A-12-302, Contributions.**

186 Section **35A-12-303, Account agreements -- Beneficiaries.**

187 Section **35A-12-304, Duties of account administrator.**

188 Section **35A-12-305, Reports.**

189 Section **35A-12-401, Scope of chapter -- No state guarantee.**